

## STATE OF NEW YORK DEPARTMENT OF PUBLIC SERVICE

THREE EMPIRE STATE PLAZA, ALBANY, NY 12223

## PUBLIC SERVICE COMMISSION

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Secretary

August 30, 1994

William F. Caton, Acting Secretary  
Federal Communications Commission  
1919 M. Street, NW  
Washington, DC 20554

Re: In The Matter of Billed Party Preference for  
O + Inter LATA Calls - CC Docket No. 92-77

Dear Secretary Caton:

The New York State Department of Public Service (NYDPS) submits these reply comments in the above-captioned proceeding.

In the Further Notice of Proposed Rulemaking, the Commission requested comments on its analysis of the benefits and costs of a "billed party preference" (BPP) system. In our previous filing in this proceeding,<sup>1/</sup> NYDPS explained that we support the concept of billed party preference because it provides a convenient means for customers to select their interexchange carriers when placing calls from public telephones. However, our previous filings also expressed concern regarding the cost of implementing BPP and the manner in which such costs would be recovered. Our comments indicated that if the Commission adopts rules requiring BPP, those rules must be limited to interLATA, interstate calls.

The comments filed in response to the Further Notice of Proposed Rulemaking indicate that there is not a consensus that the costs and benefits associated with BPP justify its implementation at this time. Moreover, Bell Atlantic, which was at one time a leading advocate of BPP, now contends that the benefits of BPP are significantly less than had been believed, and the costs substantially more.<sup>2/</sup> While Bell Atlantic may

<sup>1/</sup>See letter dated August 13, 1992 (copy attached) and NYDPS Comments in CC Docket No. 90-313, August 31, 1990.


<sup>2/</sup>Comments of Bell Atlantic Telephone Companies, p. 3.

August 30, 1994

have conflicting long range interests in BPP, it has raised sufficient questions to merit further study. In addition, the parties' Initial Comments reveal that there remain several important questions and concerns regarding BPP. This suggests that further examination is warranted before the Commission considers adopting final rules on this matter. In its further examination, the Commission should consider various alternatives to BPP which were identified in the comments, including a cap on interstate, interLATA rates charged by operator service providers,<sup>1/</sup> and increased customer awareness of existing code dialing arrangements.<sup>2/</sup>

As explained in the Comments of the Idaho Public Utilities Commission, the Colorado Public Utilities Commission, and the National Association of Regulatory Utility Commissioners, any rules adopted regarding BPP should apply only to interLATA interstate calls, and not to intrastate services. The states' authority to regulate BPP implementation at the intrastate level should not be preempted.

Respectfully submitted,



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<sup>1/</sup>See Comments of Bell Atlantic, p. 3; Comments of Colorado Public Utilities Commission, p. 1.

<sup>2/</sup>See Comments of OPASTCO, p. 6; Comments of Rochester Telephone Company, pp. 2-3.

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Secretary

FCC 92-77

August 13, 1992

Donna R. Searcy  
Secretary  
Federal Communications Commission  
1919 M Street, NW  
Washington, D.C. 20554

Re: In the Matter of Billed Party  
Preference for 0+ InterLATA  
Calls -CC Docket No. 92-77

Dear Secretary Searcy:

The New York State Department of Public Service (NYDPS) submits these reply comments in the above captioned proceeding.

The NYDPS is on record before the Commission in support of billed party preference.<sup>1</sup> We continue to view billed party preference as the most convenient means for customers to access their preferred interexchange carrier when placing calls from public telephones. Therefore, we support the FCC's investigation of billed party preference as it relates to interstate calls placed from public telephones.

While we support the concept of billed party preference, the comments filed in this proceeding raise several implementation issues which first must be answered before the Commission considers the adoption of rules for billed party preference. The most serious issues are determining the costs to implement billed party preference and how those costs should be recovered. Based upon the estimates presented in the comments, the costs to implement billed party preference from all public telephones may

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<sup>1</sup> See Comments in CC Docket No. 90-313, August 31, 1990.

exceed the \$500 million upper limit cited in the Notice.<sup>2</sup> Moreover, the comments suggest that even after it is implemented, billed party preference still will generate annual operating expenses of several million dollars.

In addition to the total costs associated with implementing billed party preference, there is the issue of cost recovery. In particular, we oppose the suggestion that costs associated with billed party preference be recovered through an increase in the subscriber line charge.<sup>3</sup> Instead, we believe that the costs of interstate billed party preference should be assigned to the operator service providers that receive 0+ and 0- calls from public telephones.<sup>4</sup>

Lastly, we are concerned that the Commission's Notice of Proposed Rulemaking in fact does not propose any specific rules for billed party preference. While we support soliciting comments on the costs of implementing billed party preference, we believe that before final rules are adopted, parties also should have an opportunity to comment on proposed rules. Therefore, we recommend that the Commission issue a Further Notice of Proposed Rulemaking in which parties may comment on specific rule proposals for billed party preference.

Issuing a Further Notice of Proposed Rulemaking should not delay the implementation of billed party preference since nationwide deployment is still several years away,<sup>5</sup> pending the completion of certain network upgrades (e.g., universal deployment of SS7, expansion of the Line Identification Data Base (LIDB) capacity to handle 0+ and 0- calls). Thus, the Commission has sufficient opportunity to fully examine and resolve the implementation issues raised by billed party preference prior to the adoption of final rules. In the meantime, recent statutory

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<sup>2</sup> See e.g., Comments of AT&T, p. 11; Bell Atlantic, Attachment A; NYNEX, p. 4; US West, p. 4.

<sup>3</sup> See Comments of NYNEX, p. 4.

<sup>4</sup> Comments of Michigan Public Service Commission Staff, p. 4.

<sup>5</sup> See e.g., Comments of US West, p. 11 (39-45 months); Southwestern Bell, (33 months) p. 17.

requirements<sup>6</sup> and federal and state regulations that mandate unblocking of access to operator service providers from public telephones should greatly improve customers' ability to reach their preferred carrier.

If the Commission chooses to move ahead, nonetheless, and adopt final rules for billed party preference, those rules should be limited to interLATA interstate calls. That limitation would be consistent with the scheme required by the Telephone Operator Consumer Services Improvement Act of 1990, which requires the Commission to establish rules to regulate operator services providers but limits the Commission's regulatory authority to interstate calls.<sup>7</sup> A similar approach is appropriate here. Additionally, the Commission lacks the jurisdiction under the Communications Act to impose billed party preference requirements for interLATA intrastate calls. To the extent a state views the intrastate provision of billed party preference as in the interest of its ratepayers, however, we encourage federal-state cooperation in the implementation of billed party preference.

Respectfully submitted,



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<sup>6</sup> See 47 U.S.C. Section 226 (1991).

<sup>7</sup> Pub. L. 101-435, codified at 47 U.S.C. 226.